

Hon. Ronald B. Leighton

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA	)	
	)	Civil No. C08-5184-RBL
Plaintiff,	)	
	)	
v.	)	<b>COMPLAINT</b>
	)	
BONNEVILLE HOT SPRINGS INC., d/b/a/	)	
BONNEVILLE HOT SPRINGS RESORT	)	
and PIRFIL CAM <i>also known as</i> PETE	)	
CAM, and ELENA CAM	)	
	)	
Defendants.	)	

The United States of America, by and through Jeff Sullivan, United States Attorney for the Western District of Washington, and Harold Malkin and Kayla Stahman, Assistant United States Attorneys for said District, acting on behalf of the Forest Service of the United States Department of Agriculture and the Army Corps of Engineers alleges:

**NATURE OF ACTION**

1. This is a civil action brought by Plaintiff United States of America commenced under the laws of Washington State for damages for trespass and under Section 309(b) and (d) of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1319(b) and (d), to obtain injunctive relief and civil penalties against Defendants BONNEVILLE HOT SPRINGS RESORT, PIRFIL "PETE" CAM

1 and ELENA CAM for the unauthorized discharge of pollutants into waters of the United States  
2 in Skamania County, Washington, in violation of CWA section 301(a), 33 U.S.C. § 1311(a).

3 **JURISDICTION**

4 2. The Court has subject matter jurisdiction in this matter under 28 U.S.C. §§ 1331,  
5 1343, 1345 and 1355, and pursuant to CWA section 309(b), 33 U.S.C. § 1319(b).

6 3. Notice of the commencement of this action is being provided contemporaneously  
7 to the State of Washington pursuant to CWA section 309(b), 33 U.S.C. § 1319(b).

8 **VENUE**

9 4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c) and  
10 1395(a), as well as pursuant to CWA section 309(b), 33 U.S.C. § 1319(b). The acts alleged  
11 herein occurred in this judicial district and, in addition, Defendants reside and or do business in  
12 this judicial district.

13 **PARTIES**

14 5. Plaintiff is the United States of America. Authority to bring this action is vested  
15 in the United States Department of Justice pursuant to 28 U.S.C. §§ 516 and 519, and 33 U.S.C.  
16 § 1366.

17 6. PIRFIL "PETE" CAM and ELANA CAM, husband and wife, reside at 1600 Belle  
18 Passi Road, Woodburn, Oregon, 97071.

19 7. BONNEVILLE HOT SPRINGS RESORT is located at 1252 East Cascade Drive,  
20 North Bonneville, WA, 98639. Upon information and belief BONNEVILLE HOT SPRINGS  
21 RESORT is owned and operated by PIRFIL "PETE" CAM and ELANA CAM, who jointly own  
22 the land upon which BONNEVILLE HOT SPRINGS RESORT is located.

23 **STATUTORY AND REGULATORY BACKGROUND OF THE CLEAN WATER ACT**

24 8. Section 301 of the Clean Water Act ("CWA"), 33 U.S.C. § 1311(a), prohibits the  
25 discharge of any pollutant into the waters of the United States, except as in compliance with a  
26

1 permit issued by the Secretary of the Army, after notice and opportunity for public comment,  
2 pursuant to the CWA, Section 404, 33 U.S.C. § 1334.

3 9. CWA Section 502(12), 33 U.S.C. § 1362(12), defines “discharge of pollutant” to  
4 include “any addition of any pollutant to navigable waters from any point source.”

5 10. CWA Section 502(6), 33 U.S.C. § 1362(6), defines “pollutant” to include, *inter*  
6 *alia*, dredged spoil, rock, sand, and cellar dirt.

7 11. CWA Section 502(7), 33 U.S.C. § 1362(7), defines “navigable waters” as “the  
8 waters of the United States, including the territorial seas.”

9 12. 33 C.F.R. §§ 328.3(a)(1), (2), (5) and (7), and 40 C.F.R. § 232.2, defines “waters  
10 of the United states” to include: (I) all waters which are currently used, were used in the past, or  
11 may be susceptible to use in interstate or foreign commerce; (ii) all interstate waters; (iii)  
12 tributaries to such waters; and (iv) wetlands adjacent to such waters or their tributaries.

13 13. 33 C.F.R. § 328.3(b) and 40 C.F.R. §§ 122.2 and 232.2 define “wetlands” as  
14 “those areas that are inundated or saturated by surface or ground water at a frequency and  
15 duration sufficient to support, and that under normal circumstances do support, a prevalence of  
16 vegetation typically adapted for a life in saturated soil conditions.”

17 14. CWA Section 502(14), 33 U.S.C. § 1362(14), defines “point source” to include  
18 “any discernible confined and discrete conveyance . . . from which pollutants are or may be  
19 discharged.”

20 15. CWA section 502(5), 33 U.S.C. § 1362(5), defines “person” to include “an  
21 individual [or] corporation.

22 16. CWA section 309(b), 33 U.S.C. § 1319(b), authorizes the commencement of a  
23 civil action for appropriate relief, including a permanent or temporary injunction, against any  
24 person who violates CWA section 301(a), 33 U.S.C. § 1311(a).

25 17. CWA section 309(d), 33 U.S.C. § 1319(d), authorizes the commencement of an  
26 action for civil penalties against any person who violates CWA section 301(a), 33 U.S.C.

1 § 1311(a), or who violates any valid order issued by EPA.

2 **GENERAL ALLEGATIONS**

3 18. Defendants own and/or operate land adjacent to land that the United States  
4 acquired in 1993, as authorized and directed by Congress in § 9 of the Columbia River Gorge  
5 National Scenic Area Act, 16 U.S.C. § 554g(d)(1), (hereafter, "subject property").

6 19. The subject property is owned by the United States and maintained by the Forest  
7 Service and is within the Western District of Washington and more particularly described as  
8 portions of Lot 9 and the SW1/4NW1/4 in Sec. 16, T2N R7E, Willamette Meridian, Skamania  
9 County, Washington.

10 **A. Trespass**

11 20. Defendants or their agents, without authority or permission from the Forest  
12 Service, wrongfully and unlawfully went upon the subject property and committed certain acts of  
13 trespass thereon, including: (1) building a one-quarter to one-half mile long trail to enable  
14 Defendant to make certain modifications on Forest Service land; (2) excavating trenches in at  
15 least three locations on Forest Service Land; (3) filling approximately 2.25 acres of wetland; and  
16 (4) adding drainage pipes to Forest Service Land. In doing this, Defendants or their agents, used  
17 earth moving equipment to accomplish the discharge of pollutants at the subject property.

18 21. Defendants or their agents, without authority or permission from the Forest  
19 Service, wrongfully and unlawfully went upon the subject property and committed certain acts of  
20 trespass thereon, including burning Forest Service land.

21 22. Defendants or their agents, without authority or permission from the Forest  
22 Service, wrongfully and unlawfully went upon the subject property and committed certain acts of  
23 trespass thereon, including applying pesticides and herbicides to Forest Service Land.

24 23. Defendants or their agents, without authority or permission from the Forest  
25 Service, wrongfully and unlawfully went upon the subject property and committed certain acts of  
26 trespass thereon, including raking Forest Service Land in preparation for landscaping.

1 Concurrently, the United States discovered the Defendants or their agents, without authority or  
2 permission from the Forest Service, wrongfully, unlawfully and knowingly went upon the subject  
3 property and committed certain acts of trespass thereon, including moving orange carsonite  
4 boundary markers that were placed by Forest Service licensed surveyors to demarcate  
5 Defendants' land from Forest Service land.

6 **B. Clean Water Act**

7 24. Defendants, or their agents, filled wetlands classified as a water of the United  
8 States on Defendants' property without the permission of the Army Corps of Engineers or the  
9 required permit under Section 301 of the Clean Water Act ("CWA"), 33 U.S.C. § 1311.

10 25. Defendants or their agents discharged pollutants into wetlands that abutted and  
11 were adjacent to an unnamed, relatively permanent tributary to Greenleaf Creek and to Greenleaf  
12 Creek itself.

13 26. Greenleaf Creek is a tidally influenced, perennial stream that flows into the  
14 Columbia River. The creek's water flow is relatively permanent. The creek, as well as the  
15 Columbia River, is currently used, was used in the past, or may be susceptible to use in interstate  
16 or foreign commerce. The Columbia River is a navigable-in-fact water that flows into the Pacific  
17 Ocean.

18 27. The wetlands at the subject property, either alone or in combination with similarly  
19 situated lands in the region, significantly affected the chemical, physical, and biological integrity  
20 of traditionally navigable waters.

21 28. At all times relevant to the Complaint, the wetlands at the subject property, the  
22 unnamed tributary to Greenleaf Creek, Greenleaf Creek, and the Columbia River each constituted  
23 "waters of the United States" and "navigable waters" under CWA Section 502(7), 33 U.S.C.  
24 § 1362(7).

25 29. Defendants are persons within the meaning of CWA Section 502(5), 33 U.S.C.  
26 § 1362(5).

1           30. By placing or allowing fill material to be placed in waters of the United States and  
2 by altering the course of a stream, and causing sediment pollution in nearby waterways,  
3 Defendants or their agents violated and continue to violate Section 404 of the CWA, 33 U.S.C.  
4 § 1344.

5           31. By performing the foregoing activities without obtaining the necessary or proper  
6 permits from the United States Army Corps of Engineers, Defendants or their agents violated and  
7 continue to violate Section 301(a) of the CWA, 33 U.S.C. § 1311.

8           32. Each day that a pollutant remains in place constitutes a separate violation of CWA  
9 Section 301(a), 33 U.S.C. § 1311, and CWA Section 404, CWA, 33 U.S.C. § 1344.

10          33. Unless enjoined, Defendants are likely to continue to discharge fill materials,  
11 dredged materials, and/or other pollutants and/or to allow pollutants to remain in waters of the  
12 United States at the Subject Property in violation of CWA Section 301(a), 33 U.S.C. § 1311, and  
13 CWA Section 404, CWA, 33 U.S.C. § 1344.

14          34. Defendants engaged in the conduct alleged in paragraphs 18 through 33 for their  
15 own commercial advantage and/or financial gain.

16 **C. Damages**

17          35. To date, the United States estimates that it will cost between \$60,000 and  
18 \$100,000 to remediate and correct the above-referenced damage done by Defendants to the  
19 subject property. This figure includes an \$18,000 survey already undertaken by the Forest  
20 Service.

21 FIRST CLAIM FOR RELIEF

22          36. Paragraphs 1 through 7 and 18 through 23 are realleged and incorporated by  
23 reference.

24          37. The aforesaid acts of trespass were conducted on Forest Service land and without  
25 the permission of the Forest Service or the United States.

1           38. Defendants' or their agents' activities on Forest Service land therefor constitute a  
2 trespass on property of the United States in violation of Washington law.

3                                   SECOND CLAIM FOR RELIEF

4           39. Paragraphs 1 through 7 and 18 through 23 are realleged and incorporated by  
5 reference.

6           40. Defendants, or their agents, intentionally and unreasonably committed the acts of  
7 trespass while having a reason to know that they, or their agents, lacked authorization to so act  
8 and wrongfully caused waste or injury to Forest Service land in violation of RCW 4.24.630.

9                                   THIRD CLAIM FOR RELIEF

10          41. Paragraphs 1 through 35 are realleged and incorporated by reference.

11          42. In placing fill materials in waters of the United States Defendants and their agents  
12 caused, and continue to cause a discharge of pollutants under the CWA, § 502(6), 33 U.S.C.  
13 § 1362(6).

14          43. In using earth moving equipment, dump trucks, an excavator, and other  
15 mechanized equipment to accomplish the discharge of pollutants at the subject property,  
16 Defendants violated and continue to violate CWA, § 301(a), 33 U.S.C. § 1311(a).

17                                   PRAYER FOR RELIEF

18          WHEREFORE, the United States prays for judgment as follows:

19          1. For treble damages pursuant to RCW 4.24.630, and such other damages, costs and  
20 attorney fees allowed by law;

21          2. For an order directing Defendants to pay to the United States a civil penalty,  
22 pursuant to CWA Section 309(d), 33 U.S.C. § 1319(d), and/or CWA Section 404(s)(4), 33  
23 U.S.C. § 1344(s)(4), for each day of each violation of the CWA alleged herein;

24          3. For an injunction permanently enjoining Defendants and their agents from  
25 entering, using, and occupying Plaintiff's land, except as expressly authorized by permit,  
26 contract, or law, and prohibiting Defendants from any further unauthorized placement of fill,

1 material and pollutants into the waters of the United States under the jurisdiction of the United  
2 States Army Corps of Engineers;

3 4. For the United States' costs in maintaining this action; and

4 5. For such further relief as the Court determines is equitable and just.

5 DATED this 2nd day of June, 2008.

6  
7 JEFFERY C. SULLIVAN  
8 United States Attorney  
Western District of Washington

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the United States Attorney Office for the Western District of Washington and is a person of such age and discretion as to be competent to serve papers.

That on June 2, 2008, she electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the attorney(s) of record for the petitioner(s):

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To the person(s) who are non CM/ECF participants, service will be made via U.S. postal service, addressed as follows:

Pete and Elena Cam  
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DATED this 2nd day of June, 2008.

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